



City of Seattle

---

Gregory J. Nickels, Mayor  
**Department of Design, Construction and Land Use**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Numbers:** 2300860  
**Applicant Name:** Patty Albert for Janet & Dan Hanson  
**Address of Proposal:** 3311 NW 74th Street

**SUMMARY OF PROPOSED ACTIONS**

Master Use Permit for future construction of a second story addition to an existing nonconforming single family residence\*.

\* In fact, a partial 3rd story is also proposed.

The following approvals are required:

Variance – to allow an expansion of the principal structure into the required rear yard.  
SMC Section [23.44.014 B](#)

Variance - to expand an existing nonconforming structure. SMC Section 23.42.112

**SEPA DETERMINATION:** ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non exempt grading or demolition  
or involving another agency with jurisdiction.

## **BACKGROUND DATA**

### **Site and Vicinity Description**

The property is located in Ballard, just a few short blocks upland from the Sound a little north of where the Salmon Bay Waterway meets the Sound. It is a midblock property, with frontage of about 55 feet along the street and along the alley to the rear of the property, and it is approximately 93 feet in length. Total lot area is 5115 square feet, according to King County Assessor records. The underlying zoning is SF5000. The site is developed with a single family house and garage. The house legally permitted on the site, pursuant to Permit No. 150204 (issued 15 June 1916) and is described as a 22-foot x 25-foot (550 square feet), 1.5-story structure with full basement. This permit covered demolition of the cottage that had been built there pursuant to 1908 permit 65082. In 1923, a 10-foot by 16-foot (160 square foot) garage was permitted pursuant to Permit No. 221026; it was to have been entered from the alley. Plans show substantial expansion of the existing house from the permitted 550-square foot footprint to a 1039 square foot footprint; there appears to have been additional unpermitted living space created in two crude additional above the roof level. The permitted garage has been expanded from 160 square feet to 308 square feet, again without benefit of permit. The single comment letter references ongoing construction, for which apparently there clearly have been no permits issued.

A large undeveloped area (almost 60 feet by 55 feet, less the garage) exists between the front of the existing house and NW 74th Street, which is fully improved. The site is not located in a mapped Environmental Critical Area. The surrounding neighborhood is comprised primarily of single-family residences developed on SF-zoned lots. All but one of the residences developed on the subject 14-foot alley, which is paved with concrete, have garages on or close to the alley, which are accessed from the alley for parking. The subject house and the house across from it are the only ones to encroach into the rear yard setback area; the house across the street does so by virtue of its attached garage, which appears to be a single story in height.

### **Proposal**

The project is described as the addition of 472 square foot of living space at the second story level, removal of 134 square feet of deck space (unpermitted) at that level, and creation of a 3rd story room 8-foot by 16-foot (207 square feet) room and a 167 square foot deck. However, all of the as-yet unpermitted work needs to be at least distinguished from permitted developed; possibly some of these could or should be added to the project description. However, the variance analysis is not constrained by unclarity regarding these issues; hence, there is no need to put the applicant to the time and trouble of providing all that additional information at this point in time.

### **Public Comment**

The public comment period ended on 26 March 2003. There was one comment, which did not support the project.

## **ANALYSIS - VARIANCE**

Variances may be authorized only when all of the variance criteria set forth at SMC Section [23.40.020](#) and quoted below are met.

1. **Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and**

The only unusual thing about the subject property is that the existing house is located near the rear property line. The required rear yard is 18 feet 6 inches, but the existing structure is only providing 8 feet 6 inches - and of that, only 1 foot 8 inches on site. Certainly house location presents limits on upward expansion, due to the difficulties in securing the necessary variances, but there is no property-related hardship with regard to reasonable expansion of the structure, because there is considerable potential building area between the structure and the street to accommodate it. The house is being substantially reconfigured in any case; hence, arguments that reconfiguration to accommodate code-complying development is unreasonably expensive are not persuasive. In short, it is the particular development plan created by the proponent, seemingly driven by desire to maximize space at “view levels” of the house, which presents the difficulty. Otherwise, strict application of this Land Use Code would not deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity.

2. **The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and**

The rooftop (3rd story) level of the proposal consists solely of a large deck and storage (“attic”) space, more than half of the total area of which can be built within permissible building envelope, without variances. Such reduced development is appropriate at the 3rd story level. Likewise, at the second story level, the “bonus room” essentially forces the bathroom and bedroom out of the standard building envelope. A smaller kitchen/livingroom area at the 2nd story level can also be accommodated within the standard building envelope. In short, well over 50% of the desired expansion can be accommodated within the standard building envelope; the parts that cannot be so accommodated can easily be relocated to other areas of the same floor (e.g. bed and bath on 2nd level relocated to “bonus room” area) or elsewhere on the lot (deck and storage areas relocated to the ground level). Granting the requested variance would go beyond the minimum necessary to afford relief and would constitute a grant of special privilege

inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.

Another index of the privilege represented by this proposal is that a special exception for expansion of structures in nonconforming rear yards has been expressly incorporated in the code at SMC Section 23.44.014.D.3.b. This section provides for extension of existing nonconforming walls, but only when such walls are at least 20 feet from the centerline of an alley. That limitation prevails upon other properties in the vicinity and zone; hence, granting a variance to allow expansion of an existing nonconforming wall within 8-feet 6 inches of the centerline of the alley would require of this property less than half the typical requirement even in cases of existing rear yard nonconformity.

3. **The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;**

Policy intent for setback requirements include increasing light and air, reducing fire hazards, reducing perceived bulk, allowing for landscaping, and providing some measure of privacy for adjacent properties. In most of these regards, the proposed expansion has adverse impacts, albeit of relatively small measure. Additionally, outdoor activities on the proposed deck so close to the alley present material risk of falling objects. Hence, granting the variance would be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.

4. **The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties; and**

The literal interpretation and strict application of the rear yard requirement would allow for reasonable construction even using the existing foundation, and would certainly allow for achievement of reasonable development objectives elsewhere within the standard building envelope. It would not cause undue hardship or practical difficulties to the applicant if not granted.

5. **The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.**

The overall design and massing of the proposed project is not consistent with the spirit and purpose of the Land Use Code in that it seeks variances that are not required to create space that can be accommodated within the standard building envelope, in so doing sticking out like a sore thumb and having adverse impacts with respect to bulk, light, air, and public safety.

**DECISION – VARIANCES**

The requested variances are **DENIED**.

Signature: \_\_\_\_\_ (signature on file) Date: April 21, 2003

Paul M. Janos, Land Use Planner  
Department of Design, Construction and Land Use  
Land Use Services

PMJ:smb

Janos/doc/2300860 DENY rear yard Janos.doc